

ORIGINAL



0000197452

Stacey Champion
3101 N. Central Ave., Suite 174
Phoenix, AZ 85013
Phone | 602-788-0033
sc@champion-pr.com

AZ CORPORATION
2019 APR 23 10:33 AM

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS, Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON

DOCKET NO: E-01345A- 19-0003
(Assigned to The Honorable Sarah N.
Harpring)

**IN THE MATTER OF THE RATE
REVIEW AND EXAMINATION OF THE
BOOKS AND RECORDS OF ARIZONA
PUBLIC SERVICE COMPANY AND ITS
AFFILIATES, SUBSIDIARIES AND
PINNACLE WEST CAPITAL
CORPORATION**

**STACEY CHAMPION'S (PARTIAL)
SUBMISSION OF DOCUMENTS
RECEIVED THROUGH FIRST APS
DATA REQUEST AND REQUEST FOR
JUDGE TO COMPEL ACC STAFF TO
RESPOND TO FIRST DATA REQUEST**

Arizona Corporation Commission

DOCKETED

APR 23 2019

DOCKETED BY

Though ACC Staff has yet to respond to Ms. Champion's first Data Request (DR) which was sent on April 8, 2019, APS did respond – mostly with objections – but also with some interesting information. Ms. Champion feels this information should be part of the public record for public transparency, in an attempt to continue to lift the veil of what has, in Ms. Champion's opinion, become an incredibly cozy relationship with the fox not just guarding the henhouse, but also regularly taking the chickens out for ice cream. This information is attached, and will be discussed as Items numbered 1 – 3.

Item 1. Correspondence/Communication

Though APS mainly "objects" to Ms. Champion's request for correspondence/communication, claiming it isn't "relevant," etc., they did provide some text message and email correspondence between ACC Staff

1 member Ranelle Paladino and APS Government Relations employee Kerri Carnes which Ms. Champion
2 found very enlightening. The text correspondence starts with a message from Paladino to Carnes that
3 says, "Can we have a kick off meeting tomorrow?" Ms. Champion finds this verbiage regarding what is
4 basically an audit of our state's largest utility monopoly which is being conducted by the regulatory body
5 who is supposed to be protecting the public's best interest, distasteful to say the least. Who exactly is
6 calling the shots at the Arizona Corporation Commission? Staff, or APS? Ms. Carnes later goes on to say
7 "I also need to give you a call to give you a heads up on another matter." Why is this being allowed, and
8 how are we as the public supposed to trust that this process can be handled in an objective way by Staff?
9 Given the fact Staff signed on to the Settlement Agreement in and of itself, appeared to have no
10 objectivity in Docket E-01345A-18-0002, has refused thus far to respond to Ms. Champion's first DR, all
11 comingled with the seemingly cozy relationship that Staff appears to continue to have with APS,
12 wouldn't it have been prudent for Commissioners to direct Staff to issue an RFP for an outside forensic
13 accountant with zero ties to APS or conflicts of interest to conduct this 2018 APS Rate Review? What
14 good is an Intervenor's rights if APS and Staff chooses to object to or simply ignore every DR? Surely
15 that wasn't the intention of those who created this regulatory body that is meant to protect and serve the
16 best interests of the public, and in this case, the ratepayers.
17
18

19
20 **Item 2. Excerpt from 2018 10-k**

21 Barbara Lockwood from APS previously stated in the Commissioner Burns and Dunn political spending
22 Docket "...when the company participates in the political process, all engagement occurs through
23 Pinnacle West and is funded through Pinnacle west earnings, not through APS customer rates." The APS
24 2018 form 10-k states: "Pinnacle West is a holding company that conducts business through its
25 subsidiaries. We derive essentially all of our revenues and earnings from our wholly-owned subsidiary,
26 APS. APS is a vertically integrated electric utility that provides either retail or wholesale electric service
27 to most of the State of Arizona, with the major exceptions of about one-half of the Phoenix metropolitan
28

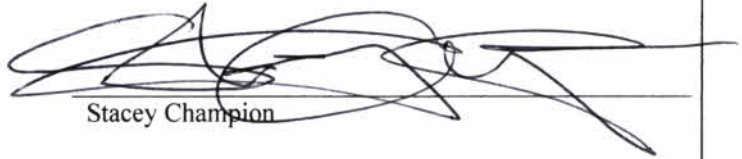
1 area, the Tucson metropolitan area and Mohave County in northwestern Arizona.” The excerpt I am
2 referring to, and which is attached, pertain to the Operations and Maintenance (O & M) expenses, and
3 especially as they relate to having increased by \$89 million in 2018, the year which this review is being
4 conducted for, (even though many customers were still on the lower Transitional Rates until May of 2018
5 which will undoubtedly skew this review anyway). Two items of special interest: \$37 million listed as a
6 line item in O & M for APS’ political spending to defeat the renewable energy initiative, and another \$6
7 million increase to “inform customers about APS’s clean energy focus.” To the first point, I’d probably
8 take a bet that APS/Pinnacle West shareholders aren’t footing the O & M expenses, and to the second
9 point, why on earth is it necessary to “inform” any of us about that? It’s not as if we have a choice about
10 who supplies our power. I can’t be disgruntled and go sign up with SRP. \$43 million as an O & M
11 expense directly tied to political spending. This is appalling. Ms. Champion is also curious about the \$11
12 million increase in costs related to “information technology” as well, though it seems less egregious than
13 having our bill money being used to fight renewable energy then sticking it in to O & M as an expense
14 which should be for the purpose of, and directly related to effectively powering our homes.
15
16

17 **Item 3. Protective Agreement**

18 Ms. Champion is also attaching the APS Protective Agreement that ACC Staff signed because it may be
19 interesting to the public.
20

21
22 Ms. Champion respectfully requests that Your Honor please compel ACC Staff to submit to Champion’s
23 first DR as she has been patiently waiting for 15 days now, and would be extremely grateful for any
24 assistance with obtaining the answers to her questions.
25
26
27
28

Respectfully submitted this 23rd day of April, 2019 by:


Stacey Champion

Attachments: Correspondence (9 pages), 2018 Form 10-k excerpt (1 page) and Protective Agreement (7 pages)

Service List for Docket No. E-01345A-19-0003:


Thomas A. Loquvam Thomas L. Mumaw ARIZONA PUBLIC SERVICE COMPANY 400 n. 5th St. Suite 8695
Phoenix, Arizona 85004

Robin Mitchell, Director & Legal Division ARIZONA CORPORATION COMMISSION 91200 West Washington
Street Phoenix, AZ 85007 le2aldiv@azcc.gov and utildivservicebyemail@azcc.gov

Patrick J. Black & Lauren Ferrigni, 2394 E. Camelback Road, Suite 600 Phoenix, Arizona 85016 Attorneys for
Arizonans for Electric Choice and Competition 602-916-5000 pblack@fclaw.com lferrigni@fclaw.com

Copies of the foregoing mailed/delivered/mailed this 7th day of February, 2019 to persons identified on this service
list.

Name of sender: Stacey Champion

Signature of sender: 

STACEY CHAMPION'S
FIRST SET OF DATA REQUESTS
REGARDING THE APS RATE REVIEW AND EXAMINATION
OF BOOKS AND RECORDS
DOCKET NO. E-01345A-19-0003
APRIL 8, 2019

Champion
1.5: Please provide all correspondence/communication related to this regulatory audit and a rate review from October 1, 2018 through February 28, 2019, excluding any data requests, between any Commissioner, employee, contractor, or agent of the Arizona Corporation Commission (ACC) and APS, including but not limited to, any of its past or present affiliates, or parents (including, but not limited to, Pinnacle West Capital Corporation), as well as any past or present officers, employees, agents, managers, representatives, consultants, contractors, lobbyists, or any other person acting (or who acted) or purporting to act on any of their behalves at any time.

Response: APS objects that this request seeks information that is not relevant and not reasonably calculated to lead to admissible evidence, and seeks the production of materials that may be protected by attorney-client privilege or the work product doctrine. Additionally, APS objects as the request seeks the production of documents outside the custody, control, and possession of APS. APS also incorporates its preliminary note and general objections into this response by this reference. Notwithstanding these objections, please see the following response:

Attached please find APSAR00465 which includes all correspondence and communications between APS and the ACC related to the rate review during the timeframe requested. For privacy, telephone and cell phone numbers have been redacted.

Ranelle Paladino

1/10/19, 11:30 AM

Kerri Carnes

Can we have kick off meeting tomorrow?

Yes, what time works for you?

Sorry... think some of my core team may be out tomorrow... working to confirm. Let me know what time you're thinking though and I'll keep working to confirm on my side

Right after lunch?

Let me see what I can do. Keep you posted. I also need to give you a call to give you a heads up on another matter

Ok.

1/10/19, 2:23 PM

Eli will do his best to make time on Monday for the kick-off meeting. Is 2 still good? Is 3 better?

2 works, but we can do 3 as well. Whatever works best for him

1/10/19, 3:41 PM

Looks like the afternoon is filling up on Monday. How about 11?

We will make it work

Thank you

Ok. 11-12 on Monday. Director's conf room. Thanks.

AP SAR00465
Page 80 of 100! Thank you!

1/24/19, 10:37 AM

Ranelle Paladino

Kerri Carnes

Good morning! I am out of bed and in the office today! Would it be possible to schedule some time Friday afternoon to come over and discuss our response to Staff's first DR?

On the rate review?

Yes, we will send the response over on Friday as it's due date, but want to provide some additional context

Let me check on availability.

Thinking anytime after 1 on our side. Or even early next week if that's better

Ok. There is an epcor meeting. Maybe it will be over by the afternoon.

In that case, we can def do next week. Just so no one feels rushed

Monday or Tuesday morning look pretty good on our side too

Ok. Tuesday morning?

Ranelle Paladino

4/25/19 10:43 AM

Kerri Carnes

Good morning. The cover letter for staffs dr says to submit **hard** copy. Want to confirm that is staffs desire? Or if electronic delivery is acceptable?

Who sent the DR?

Maureen and Barbara

One hard copy will be fine but definitely electronic will be needed.

Ok. On the prefilled it may be large (ferc form 1s, etc.), but that works for us. Thanks

Thank you.

APRAR00465
Page 82 of 109

1:25:45.300 PM

Can we have a chance to look at the data responses

Ranelle Paladino

Kerri Carnes

before we meet?

It was sent on Friday, but I can resend if it didn't make it to you. Are we still good to meet tomorrow? Or shall we reschedule

Let's reschedule if that is ok. We need a couple days to look at it. You don't need to resend. I know Barbara has it.

Honestly, the way we wrote the dr it actually may be ok. I may have been overly reactive/responsive last week while under the influence of cold meds.
Hahaha

Why don't you guys take a look and if you have any questions, let me know

Perfect. Thank you.

Ranelle Paladino

2/15/19, 3:04 PM

Kerri Carnes

Do you know if you have any customers on the r-tech rate?

Very few. Like 10ish. I believe. I'll confirm

I stand corrected. 20 as of 1/31

Wow! A whole whopping 20?!

Ha. Yep.

Thank you.

Ranelle Paladino

7/21/93 11:35 AM

Kerri Carnes

Good morning! We are preparing to push some rate review info to the Extranet site. Can you please send me a list of folks who will need access so I can get you all user info. Also, we will need an A&B for each person who will want to access any confidential info

So rate review access for now is: Barbara Keene, Candrea Allen, Ranelle Paladino, Eli, Jim, Maureen Scott, Robyn Poole. No outside consultant yet.

And I will get legal going on protective agreement. We haven't done one for this docket yet right? Are you planning to docket the standard DR responses you already provided?

They have sent the PA over, but I didn't see any A's or B's. We're planning standard DR delivery

Ok. Let me check on it.

According to Karyn in legal, Exhibit As should be signed and she sent them to APS. She didn't know we needed Exhibit Bs

Hmmmm... I'll ask them to check

Sorry

My confusion... we do have the a's, we need the extranet agreement signed by your folks. I will send that document over (similar to the agreement you all

signed in the rate case)

APSAR00465

Page 85 of 109

Ok. Thanks.

Ranelle Paladino

0:25:10 2:52:55

Kerri Carnes

Also, forgot to mention, since we're all here, sfrs
should come/be posted to ~~APSA08148~~ tomorrow
~~APSA08148~~

From: Carnes, Kerri A
To: Ranelle Paladino
Subject: RE: APS Rate Review Extranet Agreement
Date: Thursday, February 21, 2019 4:49:49 PM
Attachments: image002.png
image002.png

It's a different site. Like the rate case, we're going to load responses and docs to the site, so you only have to go to once place to find things.



KERRI A. CARNES
Manager, State Regulation & Compliance
400 North 5th Street, Phoenix, AZ 85004-3902, M.S. 9712
[REDACTED]
kerri.carnes@aps.com aps.com

On February 21, 2019 at 4:25:07 PM MST, Ranelle Paladino <RPaladino@azcc.gov> wrote:

CAUTION

CAUTION

CAUTION

This e-mail is from an EXTERNAL address (RPaladino@azcc.gov). **DO NOT** click on links or open attachments unless you trust the sender and know the content is safe. If you suspect this message to be phishing, please report it to the APS Cyber Defense Center at ACDC@aps.com.

Kerri,

Just wondering if the extranet agreement is for the link to the secure email site that you sent to Barbara for the "pre-filed" DR responses? Or is this a different site?

Ranelle S. Paladino
Chief, Telecom and Energy – Utilities Division
Arizona Corporation Commission
1200 W Washington Street
Phoenix, Arizona 85007
[REDACTED]

rpaladino@azcc.gov
www.azcc.gov



From: Kerri.Carnes@aps.com <Kerri.Carnes@aps.com>
Sent: Thursday, February 21, 2019 3:56 PM
To: Ranelle Paladino <RPaladino@azcc.gov>
Subject: APS Rate Review Extranet Agreement

Ranelle,

As I mentioned earlier today, please find the extranet agreement attached for your execution. Once we receive the executed document, we will send over user information to your team. Please let me know if you have any questions.

Thank you,



KERRI A. CARNES
Manager, State Regulation & Compliance
400 North 5th Street, Phoenix, AZ 85004-3902, M.S. 9712
[REDACTED]
kerri.carnes@aps.com aps.com

--- NOTICE ---

This message is for the designated recipient only and may contain confidential, privileged or proprietary information. If you have received it in error, please notify the sender immediately and delete the original and any copy or printout. Unintended recipients are prohibited from making any other use of this e-mail. Although we have taken reasonable precautions to ensure no viruses are present in this e-mail, we accept no liability for any loss or damage arising from the use of this e-mail or attachments, or for any delay or errors or omissions in the contents which result from e-mail transmission.

Operating revenues less fuel and purchased power expenses. Regulated electricity segment operating revenues less fuel and purchased power expenses were \$29 million higher for the year ended December 31, 2018 compared with the prior year. The following table summarizes the major components of this change:

	Increase (Decrease)		
	Operating revenues	Fuel and purchased power expenses	Net change
	(dollars in millions)		
Impacts of retail regulatory settlement effective August 19, 2017 (Note 3)			
Increase in net retail base rates	\$ 104	\$ —	\$ 104
Change in residential rate design and seasonal rates (a)	7	—	7
Higher transmission revenues (Note 3)	27	—	27
Higher retail revenues due to higher customer growth and changes in customer usage patterns, partially offset by the impacts of energy efficiency and distributed generation	26	2	24
Higher demand side management regulatory surcharges and renewable energy regulatory surcharges and purchased power, partially offset in operations and maintenance costs	1	(9)	10
Refunds due to lower federal corporate income tax rate (Note 3)	(143)	—	(143)
Effects of weather	(15)	(6)	(9)
Changes in net fuel and purchased power costs, including off-system sales margins and related deferrals	120	121	(1)
Miscellaneous items, net	3	(7)	10
Total	\$ 130	\$ 101	\$ 29

(a) As part of the 2017 Settlement Agreement, rate design changes were implemented that moved some revenue responsibility from summer to non-summer months. The change was made to better align revenue collections with costs of service.

Operations and maintenance. Operations and maintenance expenses increased \$89 million for the year ended December 31, 2018 compared with the prior-year period primarily because of:

- An increase of \$37 million related to public outreach costs at the parent company primarily associated with the ballot initiative (see Note 3);
- An increase of \$21 million in fossil generation costs primarily due to higher planned outage and operating costs;
- An increase of \$12 million related to costs for renewable energy and similar regulatory programs, which was partially offset in operating revenues and purchased power;
- An increase of \$11 million for costs related to information technology;
- An increase of \$9 million in transmission, distribution, and customer service costs primarily due to maintenance costs and customer bad debt expense;
- An increase of \$6 million to inform customers about APS's clean energy focus;

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 ROBERT "BOB" BURNS - Chairman

4 ANDY TOBIN

5 BOYD DUNN

6 SANDRA D. KENNEDY

7 JUSTIN OLSON

8 IN THE MATTER OF THE APPLICATION OF
9 RATE REVIEW AND EXAMINATION OF THE
10 BOOKS AND RECORDS OF ARIZONA PUBLIC
11 SERVICE COMPANY AND ITS AFFILIATES,
12 SUBSIDIARIES AND PINNACLE WEST
13 CAPITAL CORPORATION.

DOCKET NO. E-01345A-19-0003

PROTECTIVE AGREEMENT

14 The Arizona Corporation Commission Staff ("Staff") has requested access to certain
15 information, some of which Arizona Public Service Company ("Company") alleges may be of a
16 proprietary, confidential, or legally protected nature ("Confidential Information").

17 In order to expedite the Company's provision of information, Company, Staff, and any
18 independent contracting consultants retained by Staff for this docket (cumulatively referred to herein
19 as "the parties") agree as follows:

20 § 1. **Non-Disclosure.** Except with the prior consent of the party originally designating
21 information as confidential, or as hereinafter provided under this Agreement, no Confidential
22 Information may be disclosed to any person. This requirement does not prohibit Staff from using and
23 disclosing Confidential Information provided by Company in reports or documents that aggregate all
24 information gathered from the parties to this docket, provided that Company's individual disclosure
25 is indiscernible from the aggregate report. In addition, where Confidential Information provided by
26 Company is confidential solely as a result of either disclosing individual customer information or
27 disclosing specific prices, this Agreement shall not prohibit Staff from the public disclosure of such
28 information in an aggregated form, where no individual customer or specific individual price can be
ascertained.

1 **§ 2. Designation of Confidential Information.** For purposes of this Agreement, any
2 information furnished to Staff that Company claims to be a trade secret, or of a proprietary,
3 confidential, or legally protected nature, shall be designated and referred to herein as "Confidential
4 Information." Access to and review of Confidential Information shall be strictly controlled by the
5 terms of this Agreement.

6 All Confidential Information provided to Staff pursuant to this Agreement shall be so marked
7 by Company with a designation indicating its alleged trade secret, proprietary, confidential, or legally
8 protected nature. The Company shall memorialize in writing any Confidential Information that it
9 verbally discloses to Staff within five (5) business days of its verbal disclosure, and the writing shall
10 be marked by the Company with the appropriate designation. Any Confidential Information
11 disclosed verbally by Company shall be specifically identified as confidential at the time of its verbal
12 disclosure and shall be safeguarded by Staff and its contracting consultants only during the five (5)
13 business day period during which memorialization may be provided. Company agrees that it will
14 carefully consider the basis upon which any information is claimed to be trade secret, proprietary,
15 confidential, or otherwise legally protected. Company shall designate as Confidential Information
16 only such information as it may claim in good faith to be legally protected. Where only a part of a
17 document, or only a part of an informational submittal may reasonably be considered to be trade
18 secret, proprietary, confidential, or otherwise legally protected, Company shall designate only that
19 part of such information submittal as Confidential Information under this Agreement. Information
20 that is publicly available from any other source shall not be claimed as Confidential Information
21 under this Agreement. While the Staff will honor the Company's designation of documents or
22 portions thereof as "Confidential", mere designation of a document as "Confidential" does not mean
23 that it is in fact or in law confidential. As set forth in § 7 below, the Staff shall have the right to
24 challenge at any time the Company's designation of any document or portion thereof as
25 "Confidential" in accordance with the procedures described in this Agreement.

26 **§ 3. Performance Under Agreement Does Not Result in Waiver or Disclosure.**
27 Execution of this Agreement by the parties and performance of their obligations hereunder shall not
28 result in waiver of any claim, issue, or dispute concerning the trade secret, proprietary, confidential,

1 **§ 2. Designation of Confidential Information.** For purposes of this Agreement, any
2 information furnished to Staff that Company claims to be a trade secret, or of a proprietary,
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4 Information." Access to and review of Confidential Information shall be strictly controlled by the
5 terms of this Agreement.

6 All Confidential Information provided to Staff pursuant to this Agreement shall be so marked
7 by Company with a designation indicating its alleged trade secret, proprietary, confidential, or legally
8 protected nature. The Company shall memorialize in writing any Confidential Information that it
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12 disclosure and shall be safeguarded by Staff and its contracting consultants only during the five (5)
13 business day period during which memorialization may be provided. Company agrees that it will
14 carefully consider the basis upon which any information is claimed to be trade secret, proprietary,
15 confidential, or otherwise legally protected. Company shall designate as Confidential Information
16 only such information as it may claim in good faith to be legally protected. Where only a part of a
17 document, or only a part of an informational submittal may reasonably be considered to be trade
18 secret, proprietary, confidential, or otherwise legally protected, Company shall designate only that
19 part of such information submittal as Confidential Information under this Agreement. Information
20 that is publicly available from any other source shall not be claimed as Confidential Information
21 under this Agreement. While the Staff will honor the Company's designation of documents or
22 portions thereof as "Confidential", mere designation of a document as "Confidential" does not mean
23 that it is in fact or in law confidential. As set forth in § 7 below, the Staff shall have the right to
24 challenge at any time the Company's designation of any document or portion thereof as
25 "Confidential" in accordance with the procedures described in this Agreement.

26 **§ 3. Performance Under Agreement Does Not Result in Waiver or Disclosure.**
27 Execution of this Agreement by the parties and performance of their obligations hereunder shall not
28 result in waiver of any claim, issue, or dispute concerning the trade secret, proprietary, confidential,

1 or legally protected nature of the Confidential Information provided. Neither the limited provision of
2 Confidential Information by Company pursuant to this Agreement nor the limited provision by Staff
3 of Confidential Information pursuant to §6 of this Agreement constitutes public disclosure.

4 **§ 4. Access to Confidential Information.** Prior to reviewing any Confidential
5 Information, any Commission Staff members or independent contracting consultants shall first be
6 required to read a copy of this Protective Agreement and to certify by their signatures on Exhibit A of
7 this Agreement that they have reviewed the same and have consented to be bound by its terms.
8 Exhibit A of this Agreement shall contain the signatory's full name, business address, employer, and
9 the signatory's position with or relationship to the Arizona Corporation Commission
10 ("Commission"). Upon their execution, any and all Exhibits shall be promptly provided to counsel
11 for Company.

12 **§ 5. Use of Confidential Information.** All persons who are signatories to this Agreement
13 shall neither use nor disclose the Confidential Information for purposes of business or competition, or
14 for any purposes other than those necessary for the disposition of this docket, including the
15 preparation for and conduct of any administrative or legal proceeding. All persons afforded access to
16 Confidential Information shall keep it secure as trade secret, confidential, or legally protected
17 information in accordance with the purposes and intent of this Agreement.

18 **§ 6. Non-Signatories Entitled to Review.** To the extent that disclosure is necessary to the
19 disposition of this docket, any Commission signatory to this Agreement may provide Confidential
20 Information under seal to the Commissioners and their Staffs, to other members of the Commission
21 Staff who are advising the Commissioners and their Staffs, or to any Commission administrative law
22 judge ("ALJ").

23 **§ 7. Disclosure of Information to the Public.** The Confidential Information provided
24 pursuant to this Agreement shall not be disclosed, nor shall it be made a part of the public record in
25 this docket, or in any other administrative or legal proceeding unless Staff provides Company five (5)
26 business days written notice that information designated by Company as Confidential Information
27 shall be subject to disclosure as a public record. Upon the expiration of five (5) business days from
28 the date written notice is received by Company, any Confidential Information identified in the notice

1 as subject to disclosure shall become part of the public record in this docket, unless Company
2 initiates a protective proceeding under the terms of this Agreement.

3 **§ 8. Protective Proceedings to Prevent Disclosure to the Public.** In the event that
4 Company seeks to prevent public disclosure of Confidential Information pursuant to §7 above,
5 Company shall file within five (5) business days of receipt of Staff's written notice a motion
6 presenting the specific grounds upon which it claims that the Confidential Information should not be
7 disclosed or should not be made a part of the public record. Staff shall have an opportunity to
8 respond to the motion. Company's motion may be ruled upon by either the Commission or an
9 assigned Commission ALJ. Company may provide to the Commission or the ALJ the Confidential
10 Information referenced in the motion without waiver that the information should remain confidential
11 under the terms of this Agreement. Any Confidential Information so provided shall be kept under seal
12 for the purpose of permitting inspection by the Commission or the ALJ prior to ruling on the motion.

13 Notwithstanding any determination by the ALJ or the Commission that any Confidential
14 Information provided pursuant to this Agreement should be made a part of the public record or
15 otherwise disclosed, public disclosure shall not occur for a period of five (5) calendar days so that
16 Company may seek judicial relief from the ALJ's or the Commission's decision. Upon expiration of
17 the five (5) day period, the Commission shall release the information to the public unless Company
18 has received a stay or determination from a court of competent jurisdiction that the information is
19 proprietary and is not a public record subject to disclosure under A.R.S. § 39-101 et seq.

20 **§ 9. Judicial Proceedings Related to NonParty's Request for Disclosure.** Where the
21 Commission, ALJ, or Staff determine that disclosure is not appropriate, the Company as the real
22 party in interest shall join as a co-defendant in any judicial action brought against the Commission
23 and/or Commissioners by the party seeking disclosure of the information, unless the Company is
24 already specifically named in the action. Company also agrees to indemnify and hold the
25 Commission harmless from any assessment of expenses, attorneys' fees, or damages resulting from
26 the Commission's denial of access to the information found to be non-confidential.

27 In the event that the Commission becomes legally compelled (by deposition, interrogatory,
28 request for documents, subpoena, civil investigative demand, or similar process) to disclose any of

1 the Confidential Information, the Commission shall provide Company with prompt written notice of
2 such requirement so that Company may seek an appropriate remedy and/or waive compliance.
3 Company agrees that, upon receipt of such notice, Company will either undertake to oppose
4 disclosure of the Confidential Information or waive compliance with this Agreement. In the event
5 that disclosure of the Confidential Information is ordered, the Commission agrees to furnish only that
6 portion of the Confidential Information that is legally required.

7 **§ 10. No Preclusion of Evidentiary Objections.** In the event that public disclosure of
8 Confidential Information occurs, the provision of such information by Company pursuant to this
9 Agreement shall not limit the right of Company to object to its relevance or admissibility in
10 proceedings before the Commission.

11 **§ 11. Use of Confidential Information in Other Commission Dockets.** The Staff agrees
12 that it shall not use the confidential information obtained in this docket for purposes of any other
13 Commission dockets or other proceedings without the express consent of the Company.

14 **§ 12. Return of Confidential Information.** Within ninety (90) days of the final disposition
15 of any administrative or legal proceeding arising in or from this docket, Company shall submit a
16 written request for the return of all Confidential Information, copies thereof, and notes made by
17 signatories to this Agreement. If such a request is not received within the stated 90 days, Staff shall
18 destroy all Confidential Information, copies thereof, and notes made by signatories to this
19 Agreement, or return to Company all Confidential Information, copies thereof, and notes made by
20 signatories to this Agreement, following written notice to Company of Staff's intent to return. If this
21 Protective Agreement is entered into in order to facilitate the provision of Confidential Information in
22 connection with an informational filing made pursuant to a Commission Administrative Rule or
23 Commission Order, this provision providing for the return or destruction of Confidential Information
24 shall not apply. Commission Staff shall retain any Confidential Information provided in connection
25 with such an informational filing for whatever time period it deems appropriate. Should the
26 Commission Staff determine that it no longer needs such Confidential Information to fulfill the
27 purposes of the related Commission Administrative Rule or Commission Order, the Confidential
28 Information shall be returned to the Company or destroyed, at the Commission Staff's discretion.

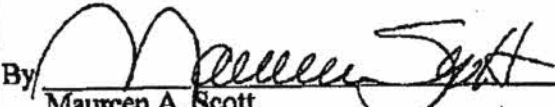
1 **§ 13. No Admission of Privileged or Confidential Status.** By participating in this
2 Agreement, Staff and its contracting consultants are neither admitting nor agreeing with Company
3 that any of the information designated as Confidential Information is, either in fact or as a matter of
4 law, a trade secret or of a proprietary, confidential, or legally protected nature. The Company shall
5 have the burden of proof at all times to demonstrate that any information it has designated as
6 Confidential Information is either in fact or as a matter of law, a trade secret or of a proprietary,
7 confidential, or legally protected nature.

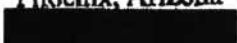
8 **§ 14. Breach of Agreement.** Company, in any legal action or complaint that it files in any
9 court alleging breach of this Agreement shall, at the written request of the Commission, name the
10 Arizona Corporation Commission as a Defendant therein.

11 **§ 15. Non-Termination.** The provisions of this Agreement shall not terminate at the
12 conclusion of this proceeding.

13
14 DATED this 12th day of February, 2019.

15 ARIZONA CORPORATION COMMISSION PINNACLE WEST CAPITAL CORPORATION

16 By 
17 Maurcen A. Scott
18 Deputy Chief of Litigation & Appeals
19 P. Robyn Poole, Staff Attorney
20 Legal Division
Arizona Corporation Commission
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By _____
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21 Attorney for Arizona Corporation
22 Commission Staff

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Company

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